

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SEAN PRESSLEY,)	
)	Civil Action No. 01 - 2350
Plaintiff,)	
)	Judge William L. Standish
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
SUPT. P. JOHNSON, C.O. CLARK, C.O.)	
YOLINSKY, C.O. M. FREEMAN, C.O. G.)	
FREEMAN, LT. BLAKELY, CAPT. T.)	
MCCONNELL, C.O. W. DUKE, C.O.)	
ABRAMS, C.O. CRUMB, CAPT.)	
CLAYBORNE, DR. REUDA, P.A., F.)	
POLANDO, DEPUTY SUPT. DICKSON, C.O.)	
B. KNIGHT, C.O. FULLER, C.O. NEIPORT,)	
CAPT. SIMPSON, H.E. MATHEWS, SGT.)	
BEDILION, C.O. FRIDLEY, C.O.S. POS.)	
DOE, #1, LT. E. FERSON, JOHN DOE, #2,)	
C.O. ONSTOTT, C.O. SHAFER, JOHN DOE,)	
#3, LT. A. BOVO, C.O. ROSE, C.O.)	
JOHNSON, C.O. AKERS, SGT. GIDDENS,)	
LT. J. HOLMES, SUPT. CONNER BLAINE,)	
JOHN DOE, #4, MAJOR HASSETT,)	
DEPUTY SUPT. MILLER, SMITH,)	
MAHLMEISTER, BRUNO, CAPT.)	
GRAINEY, sued in their individual and official)	
capacities, C.O. SIPOS, NURSE DANNER,)	
JOHN DOE #5, JOHN DOE #6, and JOHN)	
DOE #7,)	
)	
Defendants.)	

ORDER

Plaintiff in the above captioned case filed a Motion for Temporary Restraining Order (Doc. No. 206) regarding access to his litigation files on August 2, 2005 as well as a Motion for Hearing (Doc. No. 233) on November 14, 2005. Plaintiff also filed a Notice to the Court (Doc.

No. 234) on November 14, 2005, stating that he could not file a response to the pending motions for summary judgment as he did not have access to his legal files. The District Judge adopted this Magistrate Judge's Report and Recommendation on March 31, 2006, granting the motion for temporary restraining order to the extent it sought the return of his legal property in accordance with Department of Corrections policy. This ruling eliminates any obstacle to responding to the pending motions for summary judgment Plaintiff had. Therefore,

IT IS HEREBY ORDERED this 4th day of April, 2006 that the Motion for Hearing is **TERMINATED** as moot.

IT IS FURTHER ORDERED that plaintiff shall be allowed until May 4, 2006, to respond to defendants' motions for summary judgment. Plaintiff is advised that his response to the motions may include opposing or counteraffidavits (executed by the plaintiff or other persons) which have either been sworn to under oath (notarized) or include at the end of the document, immediately before the plaintiff's signature, the following in accordance with 28 U.S.C. § 1746: "I declare under penalty of perjury that the foregoing is true and correct. Executed this ____ day of ____, 20 ____.

IT IS FURTHER ORDERED that all affidavits, opposing or counteraffidavits must be based upon the personal knowledge of the person executing the affidavit; that no affidavit, amended complaint, pretrial narrative or other document containing plaintiff's allegations will be considered when determining the motion for summary judgment unless it has been notarized before a notary public or unless it contains a declaration under penalty of perjury as set forth above; that plaintiffs may attach to their affidavits copies of any depositions, answers to interrogatories, institutional records or other documents they wish this court to consider when

addressing the summary judgment motion; and that the motion for summary judgment will be evaluated under the procedure standard set forth in Rule 56 of the Federal Rules of Civil Procedure; and that failure to respond may result in entry of judgment against them.

IT IS FURTHER ORDERED that plaintiff shall serve on counsel for defendant a copy of each pleading or other document submitted for consideration by the court and shall include with each document filed a certificate stating the date a true and correct copy of the pleading or document was mailed to each attorney. Any pleading or other document received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service shall be returned to the plaintiffs by the Clerk.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.



LISA PUPO LENIHAN
U.S. Magistrate Judge

cc: Sean Pressley
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